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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/064,477 | 07/18/2002 | Andrew E. Fano | 3383600003 | 9683 |

30498 7590 02/15/2007

ACCENTURE
C/O VEDDER PRICE KAUFMAN & KAMMHOLZ, P.C.
222 NORTH LASALLE STREET
CHICAGO, IL 60601

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| EXAMINER |
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NGUYEN, CINDY

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| ART UNIT | PAPER NUMBER |
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2161

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 02/15/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/064,477

Applicant(s)

FANO, ANDREW E.

Examiner

Cindy Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/28/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-25 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-25 and 27-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to communication filed 11/28/06.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 2, 5, 6, 7, 8, 10, 11, 12, 13-15, 17, 18, 19, 21, 25, 27, 28, 19 and 32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. This claimed subject matter lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/phenomenon) since it fails to produce a useful, concrete and tangible result. Specifically, the claimed subject matter does not produce

A useful results because the claimed subject matter fails to sufficiently reflect at least one practical utility set forth in the descriptive portion of the specification. More specifically, while the described practical utility is directed to media indexing, the claimed subject matter relates only to receiving index information separate from the media file from an external source. It is not clear how this result is utilized.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1- 8, 10, 11-19, 20, 25, 27, 28, 29 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith-Semedo et al (US 6877010) (hereafter Smith-Semedo).

Regarding claims 1 and 27, Smith-Semedo discloses: A method and an apparatus for media indexing comprising: capturing a subject in a media file with a media capture device(col. 8, lines 45-50, Smith-Semedo);

automatically receiving index information separate from the media file from an external source related to the subject (col. 3, lines 27-35; col. 6, lines 27-30, Smith-Semedo); and

associating the index information with the media file (col. 5, lines 35-50; col. 6, lines 30-43, Smith-Semedo).

Regarding claim 2, all the limitations of this claim have been noted in the rejection of claim 1. In addition, Smith-Semedo discloses: wherein the step of associating the index information with the media file further comprises: encoding the index information into the media file (col. 8, line 15; col. 9, lines 50-64, Smith-Semedo).

Regarding claims 3 and 15, all the limitations of these claims have been noted in the rejection of claims 1 and 13. In addition, Smith-Semedo discloses: further comprising: providing the media file and the index information to a media file storage device which comprises a plurality of stored media files having index information associated therewith (col. 8, lines 9-19, Smith-Semedo); and storing the media file along with the plurality of stored media files (col. 9, lines 44-45, Smith-Semedo).

Regarding claim 4, all the limitations of this claim have been noted in the rejection of claim 3. In addition, Smith-Semedo discloses: wherein the media file storage device stores the media file and index information, the method further comprising at least one of the following: searching the plurality of stored media files using the index information and enabling a commercial system with the plurality of stored media files using the index information (col. 11, lines 15-31, Smith-Semedo).

Regarding claim 5 , all the limitations of this claim have been noted in the rejection of claim 1. In addition, Smith-Semedo discloses: wherein the index information, prior to being associated with the media file, is transmitted from a media indexing beacon (col. 5, lines 25-43, Smith-Semedo).

Regarding claims 6 and 28 , all the limitations of this claim have been noted in the rejection of claim 5 and 27. In addition, Smith-Semedo discloses: wherein the step of

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receiving the index information is in response to an index information request (col. 5, lines 67 to col. 6, line 2, Smith-Semedo).

Regarding claim 8, all the limitations of these claims have been noted in the rejection of claim 1. In addition, Smith-Semedo discloses: storing index information relating to a subject (col. 9, lines 44-54, Smith-Semedo);

receiving an index information request that is generated by a media capture device (col. 6, lines 27-30, Smith-Semedo);

transmitting the index information relating to the subject separately to a media capture device (col. 6, lines 31-43, Smith-Semedo).

Regarding claim 10, all the limitations of this claim have been noted in the rejection of claim 8. In addition, Smith-Semedo discloses: wherein the media capture device receives the index information and associates the index information with a media file (col. 6, lines 44-50, Smith-Semedo).

Regarding claim 11, all the limitations of this claim have been noted in the rejection of claim 8. In addition, Smith-Semedo discloses: wherein the index information is wirelessly transmitted to the media capture device (col. 10, lines 35-48, Smith-Semedo).

As per claim 13, all the limitations of this claim have been noted in the rejection of claims 1 and 5. It is therefore rejected as set forth above.

Regarding claims 7, 12 and 17, all the limitations of these claims have been noted in the rejection of claims 1 and 8 and 13 above, respectively. In addition, Smith-Semedo discloses: wherein the index information comprises at least one of the following: a time indicator, a landmark indicator, an event indicator, a global positioning system indicator, commercial information, a universal resource locator, and a proximity indicator (timer object, logging object, col. 5, lines 50-60, Smith Semedo).

Regarding claim 14, all the limitations of this claim have been noted in the rejection of claim 13. In addition, Smith-Semedo discloses: prior to providing index information from the media indexing beacon, further comprising detecting a user input to capture the media file (col. 7, lines 25-38, Smith-Semedo); and providing an index information request to the media indexing beacon (col. 6, lines 44-50, Smith-Semedo).

As per claim 16, all the limitations of these claims have been noted in the rejection of claims 3, 4 and 15. It is therefore rejected as set forth above.

Regarding claim 18, all the limitations of this claim have been noted in the rejection of claim 17. In addition, Smith-Semedo discloses: wherein the index information enables a media file to be utilized by at least one commercial system, wherein the at least one commercial system comprises at least one of the following: a workflow system, a procurement system, a retail sales system, and a safety inspection/auditing system (col. 8, line 1-4 and lines 31-36; Smith-Semedo).

Regarding claim 19, Smith-Semedo discloses: a media capture and indexing system comprising a media indexing beacon (external trigger or signal) which generate a beacon signal containing index information relating to a subject and a media capture device (automatically generated the timer when capturing the live event, Smith-Semedo) that captures the subject in a media file and separately receives the beacon signal from the beacon and associates the index information with the media file (col. 6, lines 31-50, Smith-Semedo).

Regarding claim 20, all the limitations of this claim have been noted in the rejection of claim 19. In addition, Smith-Semedo discloses: wherein the media capture device captures a plurality of media files each having index information associated therewith, the system further comprising: a media file storage device that receives the plurality of media files, wherein the plurality of media files may be indexed on the index information (col. 15, lines 23-38, Smith-Semedo).

As per claims 25 and 29, all the limitations of these claims have been noted in the rejection of claims 1 and 8. It is therefore rejected as set forth above.

Regarding claim 32, all the limitations of this claim have been noted in the rejection of claim 27. In addition, Smith-Semedo discloses: wherein the apparatus comprises a digital camera and wherein the means for receiving index information includes a wireless receiver (col. 8, lines 47-50, Smith-Semedo).

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith-Semedo et al. (US 6877010) (Smith-Semedo) in view of Katseff et al. (US 5822537) (Katseff).

Regarding claim 21, all the limitations of this claim have been noted in the rejection of claims 11 and 19. However, Smith-Semedo didn't disclose: wherein the media indexing beacon further comprises: at least one index buffer comprising the index information; and a transmitter operably coupled to the at least one index buffer, wherein the transmitter provides the index information to the media capture device. On the other hand, Katseff discloses: wherein the media indexing beacon further comprises: at least one index buffer comprising the index information (col. 15, lines 16-37, Katseff); and a transmitter operably coupled to the at least one index buffer, wherein the transmitter provides the index information to the media capture device (310, fig. 3 and corresponding text, Katseff). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include wherein the media indexing beacon further comprises: at least one index buffer comprising the index information; and a transmitter operably coupled to the at least one index buffer, wherein the

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transmitter provides the index information to the media capture device in the system of Smith-Semedo as taught by Katseff. The motivation being to enable the system provide a data buffer monitoring subroutine to maintain a pre-defined amount of audio and video data in the audio and video buffers.

Regarding claim 22, all the limitations of this claim have been noted in the rejection of claim 21. In addition, Smith-Semedo /Katseff discloses: wherein the media indexing beacon further comprises a receiver that receives an index information request from the media capture device, wherein the transmitter transmits the index information in response to the index information request (370, 340, 31, fig. 3 and corresponding text, Katseff).

As per claims 23 and 24, all the limitations of these claims have been noted in the rejection of claims 21 and 22. It is therefore rejected as set forth above.

Contact information

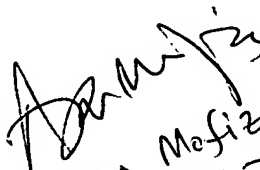
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 571-272-4025. The examiner can normally be reached on 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu A. Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Cindy Nguyen


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